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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,175	12/21/2001	Kerry B. VanDer Kamp	884.765US1	6021

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EXAMINER

PYZOCHA, MICHAEL J

ART UNIT	PAPER NUMBER
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2137

DATE MAILED: 01/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/032,175	VANDER KAMP, KERRY B.	
	Examiner	Art Unit	
	Michael Pyzocha	2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-20 are pending.
2. Amendment filed 12/15/2005 has been received and considered.

Claim Rejections - 35 USC § 112

3. The rejections under the first and second paragraphs of 35 U.S.C. 112 have been withdrawn based on the filed amendment.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3, 6-7, 14-15, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Girard (US 20030097585).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35

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U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

As per claims 1-3, 6-7, 14-15 and 17 Girard discloses a system and method including requesting a password from a BIOS during a boot sequence of a device, after loading an operating system kernel; receiving the password; and unlocking a hard drive with the password by determining if the hard drive is locked and using drivers (see paragraphs 20-22, and 25).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Girard in view of Herbert et al (US 5757919).

As per claim 4, Girard fails to disclose loading the kernel from flash memory. However, Herbert et al teaches such loading (see column 2 lines 39-53).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to load the kernel of Girard from flash memory.

Motivation to do so would have been allows all basic operations to be performed without external intervention (see column 2 lines 39-53).

8. Claims 5 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Girard as applied to claims 1 and 14 above, and further in view of "OEM Manual" (Hereinafter OEM).

As per claims 5 and 16, Girard fails to disclose freezing a lock mechanism to prevent tampering with security parameters. However, OEM teaches such a limitation (see page 80).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use OEM's freeze lock feature in the modified password protected hard drive system of Girard.

Motivation to do so would have been to reject any other commands to update the device lock functions (see page 80).

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9. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Girard as applied to claim 7 above, and further in view of Parzych et al (US 5375243).

As per claims 9-10, Girard fails to disclose the password being a serial number and being encrypted. However, Parzych et al teaches such a password (see column 4 lines 30-48).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Parzych et al's password in the Girard system.

Motivation to do so would have been to allow a dealer as well as a user to access the system.

10. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Girard as applied to claim 7 above, and further in view of "Dell PowerEdge 7150" (hereinafter Dell) and further in view of McNabb et al (US 6289462).

As per claim 8, Girard fails to disclose a chassis intrusion mechanism to alternate between a secure mode and a maintenance mode, wherein the hard drive remains password protected in both the secure mode and the maintenance mode. However, Dell teaches a chassis intrusion mechanism (see page 6) and McNabb et al teaches a secure mode and a maintenance mode (see column 11 line 66 through column 12 line 14).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Dell's chassis intrusion mechanism to switch between McNabb et al's modes and to use this system in the hard drive protection system of Girard.

Motivation to do so would have been to know when the chassis is open (see page 6) and to have the ability to indicate which mode the system is in (see column 12 lines 1-14).

11. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Girard, Dell, and McNabb et al system as applied to claim 8 above, and further in view of Parzych et al (US 5375243).

As per claims 11 and 13, the modified Girard, Dell, and McNabb et al system fails to disclose the password being a serial number and being encrypted. However, Parzych et al teaches such a password (see column 4 lines 30-48).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Parzych et al's password in the modified Girard, Dell, and McNabb et al system.

Motivation to do so would have been to allow a dealer as well as a user to access the system.

As per claim 12, Applicant is directed to Girard similarly applied as to in claim 1.

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12. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Girard as applied to claim 17 above, in view of Liebenow.

As per claims 18-19, Girard fails to disclose the accessing is done after a system interrupt. However Liebenow teaches such accessing (see column 3 lines 11-25).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to access the password of Girard after an interrupt.

Motivation to do so would have been to protect the system when the hard drive powers down (see column 3 lines 11-25).

Allowable Subject Matter

13. Claim 20 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. The following is a statement of reasons for the indication of allowable subject matter: the prior art does not teach specifically loading an operating system kernel in less than three seconds.

Response to Arguments

15. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chapter 2 of Inside Windows 2000 Server ©2000 teaches the boot sequence of a typical computer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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MJP

Matthew L. Smithers
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PRIMARY EXAMINER
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